IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.11.2006

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

WRIT PETITION Nos.10159 of 2002 and 19013 of 2003
and
W.P.M.P.No.23813 of 2003

M.Mayandi ...
Petitioner in both Writ Petitions

Vs.

1.The Joint Registrar of Co-operative Societies,
Tirunelveli.

2.The Deputy Registrar of Co-operative Societies,
Cheranmahadevi,
Tirunelveli District.

3.The Kallidaikurichi Co-operative Urban
Bank at Kallidaikurichi,
Tirunelveli District,
rep.by its Special Officer ... Respondents in both Writ Petitions

* * *

W.P.No.10159 of 2002: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus as stated therein.

W.P.No.19013 of 2003: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus as stated therein.

* * *

For petitioner in both WPs : Mr.T.S.Rajamohan
For respondents in both WPs: Mr.C.Thirumaran – G.A.- for R1&R2
Ms.L.Sasireka – for R3

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C O M M O N O R D E R

W.P.No.19013 of 2003 :- The Writ Petition has been filed praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondents particularly that of the first respondent in Na.Ka.2532/03 Ni.Va.Va., dated 02.06.2003, and quash the same as illegal, unlawful and without jurisdiction and consequently direct the respondents to regularise the services of the petitioner as Night Watchman and provide monetary benefits, with effect from 1.1.2000.

W.P.No.10159 of 2002 :- The Writ Petition has been filed praying for the issuance of a Writ of Mandamus to direct the third respondent to regularise the services of the petitioner as Night Watchman and provide monetary benefits, with effect from 01.01.2000.

2.Since both the above mentioned writ petitions have arisen under the same facts and circumstances, a common order is passed.

3.Heard the learned counsels for the petitioner as well as for the respondents.

4. On behalf of the petitioner, it has been submitted that the petitioner was originally working in the Madura Coats Employees Co-operative Stores, Vicramasingapuram as Sweeper cum Scavenger. The petitioner's employment was strictly in conformity with Rule 149 of the Tamil Nadu Co-operative Societies Rules,1988. He had been sponsored through the Employment Exchange by a letter, dated 02.08.1980. His services were regularised with effect from 19.08.1980. Since the said Co-operative Society was dormant since 1982, the erstwhile Special Officer of the said society had transferred the petitioner to the third respondent bank as a Night Watchman by his proceedings, dated 03.03.1996. Accordingly, the petitioner was transferred subsequent to the proceedings of the second respondent, dated 27.01.1996, and the proceedings of the first respondent, dated 07.11.1996, based on the representation submitted by the petitioner. The transfer of the petitioner to the third respondent bank was in accordance with the provisions of the Tamil Nadu Co-operative Societies Act,1983, and the rules framed thereunder. The said transfer was effected by virtue of G.O.Ms.No.382, dated 09.05.1997. However, the third respondent had stopped paying the petitioner his regular salary and had compelled him to work on daily wages. Therefore, the petitioner had filed the writ petition before this Court in W.P.No.12018 of 1999, praying for a Writ of Mandamus to direct the third

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respondent to absorb the petitioner as a Night Watchman following the directions issued by the second respondent. By an order, dated 16.12.1999, this Court had directed the third respondent to appoint the petitioner as a Night Watchman from 01.01.2000. However, the third respondent had neither appointed the petitioner as a Night Watchman nor paid his salary due to him. Therefore, the petitioner has been constrained to file the above writ petition in W.P.No.10159 of 2002 seeking for a Writ of Mandamus to regularise him in the post of Night Watchman.

5.The petitioner has further submitted that the first respondent vide proceedings Na.Ka.2532/03 Ni.Va.Va., dated 02.06.2003, has informed the second respondent that since the Registrar of Co-operative Societies is initiating proceedings to fix the cadre strength of the employees in the various posts, further proceedings with regard to the request of the petitioner could be considered only after obtaining the necessary advice from the Registrar of Co-operative Societies. Therefore, the petitioner has filed the above writ petition, in W.P.No.19013 of 2003, challenging the proceedings of the second respondent, dated 02.06.2003, as being illegal, unlawful and without jurisdiction and praying for a direction to direct the respondents to regularise the services of the petitioner as Night Watchman and to provide him the monetary benefits, with effect from 01.01.2000.

6.During the course of the hearing, the learned Government Advocate appearing on behalf of the respondents had submitted that the State Government has issued a letter No.22322/CG1/2005-7, dated 02.11.2006, wherein it has been stated that the Government of Tamil Nadu has issued directions to the Registrar of Co-operative Societies to consider regularisation of employees of Co-operative institutions who have been employed between 08.07.1980 and 11.03.2001. It was further submitted that the petitioners would also be considered for regularisation accordingly. On such submission being made, the first respondent is directed to consider the petitioner's request for regularisation, including the granting of monetary benefits, in accordance with the Government letter No.22322/CG1/2005-7, dated 02.11.2006, and pass appropriate orders, expeditiously.

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With the above direction, the writ petitions are disposed of. Consequently, the connected W.P.M.P. is closed. No costs.

ssm

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Joint Registrar of Co-operative Societies,
   Tirunelveli.

2. The Deputy Registrar of Co-operative Societies,
   Cheranmahadevi,
   Tirunelveli District.

3 The Special Officer
   The Kallidaikurichi Co-operative Urban
   Bank at Kallidaikurichi,
   Tirunelveli District.

+ one cc to MR. T.S. Raja Mohan, Advocate sr no. 56178
+ one cc to Mr. S.N. Ravichandran, Advocate sr no. 56230

JE(CO)
NM(29.11.2006)

WRIT PETITION Nos.10159 of 2002 and 19013 of 2003
and
W.P.M.P.No.23813 of 2003

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